

² 5 U.S.C. § 8101 *et seq.*

September 12, 2016 employment injury; and (2) whether appellant has met her burden of proof to establish that the acceptance of her claim should be expanded to include additional bilateral knee conditions causally related to her accepted September 12, 2016 employment injury.

FACTUAL HISTORY

On September 12, 2016 appellant, then a 53-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that day she bruised both of her knees when she slipped, tripped, and fell while in the performance of duty. She stopped work on the date of injury and has not returned to work.

In an accompanying narrative statement, appellant reported that on September 12, 2016 she was carrying a tray of mail in her arms and walking with a mail cart to her route when she fell on both knees onto the floor. She was unable to break her fall with the tray of mail in her arms.

Appellant submitted a September 12, 2016 attending physician's report (Form CA-20) from Dr. Sadhana S. Gupta, a Board-certified family medicine physician, who diagnosed bilateral knee contusion as a result of the employment incident on that day. In a disability certificate dated September 12, 2016, Dr. Gupta advised that appellant could return to light-duty work on September 19, 2016 due to her injury.

Also, on September 12, 2016 Dr. Robert Wilkins, an internist, reported that an x-ray of the left knee revealed mild degenerative change and no acute fracture.

In a September 20, 2016 Form CA-20 report, Dr. Bruce R. Ross, an attending orthopedic surgeon, reported a September 12, 2016 date of injury when appellant tripped over a wheel of a pushcart and fell injuring both knees. He diagnosed derangement of the right and left knee and checked a box marked "yes" indicating that the condition was caused or aggravated by an employment activity. Dr. Ross opined that appellant was totally disabled from September 13, 2016 to an unknown date.

On September 30, 2016 OWCP accepted appellant's claim for contusion of the right and left knee.

OWCP received a September 12, 2016 form progress report from Dr. Ross who diagnosed: pain in unspecified knee; unspecified fall, initial encounter; contusion of unspecified knee, initial encounter; and bradycardia unspecified.

In a narrative report dated September 20, 2016, Dr. Ross noted appellant's history of injury and provided findings on physical and x-ray examination. He also noted that she had preexisting osteoarthritis of the left greater than right knee, which had been aggravated by her fall. Dr. Ross could not ascertain whether appellant had a meniscal tear or ligamentous injury which he indicated would be seen on a magnetic resonance imaging (MRI) scan.

Dr. Ross, in medical notes dated October 11 and November 1, 2016, diagnosed post-traumatic bilateral knee chondromalacia patella. He opined that appellant was totally unemployable.

In duty status reports (Form CA-17) dated October 11 and November 1, 2016, Dr. Ross again diagnosed derangement of the left and right knee due to appellant's September 12, 2016 employment injury. He noted that she was unable to perform her regular work duties.

Appellant filed claims for compensation (Form CA-7) for leave without pay (LWOP) for total disability for the period October 28 through December 23, 2016. The employing establishment indicated that she had received continuation of pay from September 13 to October 27, 2016.

OWCP received a December 6, 2016 medical note in which Dr. Ross diagnosed bilateral knee internal derangement with osteoarthritis. Dr. Ross noted that appellant reported that she was currently working, but was in pain. He found that she was employable.

OWCP, by development letter dated January 5, 2017, advised appellant of the deficiencies in her claim. It requested that she submit additional factual and medical information to support her claim for compensation commencing October 28, 2016. OWCP noted that the evidence of record indicated that appellant stopped work on September 12, 2016 and had not returned. It requested that she verify this information.

OWCP received a January 5, 2017 medical note from Dr. Ross. Dr. Ross continued to diagnose bilateral knee internal derangement with degenerative changes and opined that appellant was unemployable.

Appellant filed additional claims for compensation for LWOP for the period December 24, 2016 through February 3, 2017.

In a January 19, 2017 right knee MRI scan report, Dr. Sheldon P. Felt, a Board-certified radiologist, provided an impression of an area of meniscal degeneration within the posterior horn of the medial and lateral menisci, tearing of the posteromedial meniscal root, joint effusion, and degenerative changes.

In a work capacity evaluation (Form OWCP-5c) dated January 24, 2017, Dr. Ross advised that appellant was unable to perform her usual job without restrictions, but she could work eight hours a day with certain restrictions for an unknown period.

In a medical note dated January 24, 2017, Dr. Ross reviewed the results of a right knee MRI scan and diagnosed a meniscus tear. He opined that this condition could have developed during appellant's slip and fall at work. Dr. Ross again indicated that she was unemployable.

By decision dated February 17, 2017, OWCP denied appellant's claim for total disability compensation for the period commencing October 28, 2016 and continuing. It found that the medical evidence of record was insufficient to establish that she sustained additional medical conditions and was totally disabled as a result of her accepted September 12, 2016 employment injury.

On March 9, 2017 the employing establishment informed OWCP that it had offered appellant a job based on her medical restrictions and that she responded by submitting new medical documentation.

In medical notes dated February 2 through July 27, 2017, Dr. Ross reiterated his diagnosis of right knee torn meniscus and diagnosed post-traumatic bilateral knee osteoarthritis. He continued to maintain that appellant remained disabled and unemployable. Dr. Ross noted that she could not return to work as a letter carrier because the position required excessive ambulation. He recommended a job that allowed appellant to stand and sit for short periods of time. Dr. Ross determined that she had reached maximum medical improvement (MMI) as of April 20, 2017, the date of his examination.

Dr. Felt reported on February 15, 2017 that a left knee MRI scan revealed areas of meniscal degeneration within the posterior horn of the medial meniscus and anterior and posterior horns of the lateral meniscus, joint effusion, and degenerative changes. He also reported heterogeneous marrow appearance within the medial and lateral femoral condyles without evidence of edema, which may be secondary to prior trauma and was otherwise chronic in nature.

By letter dated October 6, 2017, OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a set of questions, to Dr. Leon Sultan, an orthopedic surgeon, for a second opinion to determine her work capacity and whether she had residuals of her work-related conditions.

OWCP received medical notes dated September 7 and October 12, 2017 from Dr. Ross in which he continued to diagnose post-traumatic bilateral knee osteoarthritis and find that appellant remained disabled and unemployable.

In an October 23, 2017 report, Dr. Sultan reviewed the SOAF and medical record. He reported findings on physical examination of the bilateral knees. There was no localized swelling, deformity, or discoloration. The bilateral patellae was mobile. Stress testing revealed intact collateral and cruciate ligaments bilaterally. Distal circumference was measured at 17-1/2 inches in both thighs. The circumference of both knees measured at 16 inches. There were no complaints on palpation over either the medial or lateral joint line. Range of motion testing of each knee revealed full extension at 0 degrees, (normal was 0 degrees), and flexion to 30 degrees (normal was 145 degrees) with limitation of flexion secondary to voluntary resistance. While in the supine position, provocative testing of both knees revealed negative spring and McMurray tests bilaterally. In the sitting position, both knees had full extension at 0 degrees, (normal was 0 degrees), and flexion to 120 degrees (normal was 145 degrees) with limitation of flexion secondary to the end of the examination table. There was no patellofemoral crepitus with motion testing and a patellofemoral compression test was negative on both sides. Appellant was observed ambulating without external support. Her walking pattern was steady without visible signs of antalgia. Appellant was able to semi-squat without impairment.

Dr. Sultan responded to OWCP's questions by indicating that appellant's accepted bilateral knee contusion had clinically resolved except for voluntary resistance to motion testing as noted above while in the supine position. He further indicated that her claim should not be expanded to include additional medical conditions. Dr. Sultan noted that appellant required no further medical treatment. He related that she had reached MMI regarding her accepted bilateral knee condition. Appellant had no nonwork-related conditions that rendered her disabled or partially disabled. Dr. Sultan concluded that no work capacity evaluation or work hardening program was warranted and she could work eight hours a day without permanent restrictions.

In Form CA-17 reports dated October 12 and November 14, 2017, Dr. Ross again diagnosed bilateral knee derangement due to appellant's September 12, 2016 employment injury and opined that she was unable to perform her regular work duties.

In a November 14, 2017 medical note, Dr. Ross reiterated his diagnosis of post-traumatic bilateral knee osteoarthritis.

By development letter dated January 10, 2018, OWCP notified appellant that Dr. Ross had failed to provide a rationalized medical opinion explaining how her diagnosed knee condition had been caused or aggravated by the accepted September 12, 2016 employment injury. It requested that she obtain and submit a rationalized medical report regarding causal relationship. OWCP afforded appellant 30 days to respond.

OWCP received a December 21, 2017 medical note from Dr. Ross. Dr. Ross continued to diagnosis post-traumatic bilateral knee osteoarthritis with degenerative tear of the medial meniscus and opined that appellant was unable to perform her required work duties and remained unemployable.

On February 6, 2018 appellant, through counsel, requested reconsideration of the February 17, 2017 decision. Counsel contended that the medical evidence of record demonstrated that she had sustained additional injuries and conditions causally related to her accepted September 12, 2017 employment injury. He further contended that the medical evidence established that appellant was disabled commencing October 28, 2016 and continuing due to the accepted employment injury.

Dr. Ross, in medical notes dated January 30 and March 1, 2018, again diagnosed post-traumatic bilateral knee osteoarthritis with degenerative tear of the medial meniscus and indicated that appellant was unable to perform her required work duties and remained unemployable.

By decision dated May 7, 2018, OWCP reviewed the merits of appellant's claim, but denied modification of the February 17, 2017 decision finding that there was no rationalized medical opinion evidence to establish the claim for total disability compensation or to expand the acceptance of the claim to include additional conditions.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴

Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues which must be proved by a preponderance of the

³ *Id.*

⁴ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

reliable, probative, and substantial medical evidence.⁵ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work.

Under FECA the term "disability" means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.⁶ Furthermore, whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁷ The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.⁸

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish total disability commencing October 28, 2016 causally related to her accepted September 12, 2016 employment injury.

In a September 20, 2016 Form CA-20 report, Dr. Ross, appellant's attending physician, diagnosed derangement of the right and left knee and checked a box marked "yes" indicating that the condition was caused or aggravated by the accepted September 12, 2016 employment injury. He found that she was totally disabled commencing September 13, 2016 to an unknown date. The Board has held that when a physician's opinion on causal relationship consists only of a checkmark on a form, without more by way of medical rationale, the opinion is of diminished probative value.⁹ Dr. Ross has not provided the necessary medical rationale explaining how falling on a route on September 12, 2016 caused or aggravated appellant's diagnosed condition and resulted in her total disability from work. Therefore, the Board finds that his September 20, 2016 report is insufficient to establish her burden of proof.

Similarly, Dr. Ross' October 11 and November 1, 2016 and October 12 and November 14, 2017 Form CA-17 duty status reports are insufficient to establish appellant's burden of proof. He diagnosed derangement of the left and right knee due to the accepted September 12, 2016 employment injury. Dr. Ross opined that appellant was unable to perform her regular work duties.

⁵ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

⁶ *See* 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

⁷ *T.O.*, Docket No. 17-1177 (issued November 2, 2018); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁸ *See William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁹ *See J.L.*, Docket No. 18-0698 (issued November 5, 2018); *R.A.*, Docket No. 17-1472 (issued December 6, 2017); *Sedi L. Graham*, 57 ECAB 494 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

The Board notes, however, that derangement of the left and right knee had not been accepted as causally related to the September 12, 2016 employment injury. As Dr. Ross failed to offer the necessary rationale for his opinion that appellant was disabled as of October 11, 2016 due to her accepted bilateral knee contusion, his opinion is of limited probative value.¹⁰

In medical notes dated October 11, 2016 to March 1, 2018, Dr. Ross diagnosed post-traumatic bilateral knee chondromalacia patella, bilateral knee internal derangement with osteoarthritis, and right knee meniscus tear. He opined that appellant was totally disabled from work. However, Dr. Ross failed to offer a medical opinion addressing whether the diagnosed conditions and resultant disability during the claimed period were causally related to the accepted September 12, 2016 employment injury. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹¹

Dr. Ross' December 6, 2016 medical note diagnosed bilateral knee internal derangement with osteoarthritis and found that appellant could work. He further found, in a January 24, 2017 work capacity evaluation, that while she could not perform her usual job without restriction, she could work eight hours a day with restrictions. The Board finds that Dr. Ross' medical note and work capacity evaluation are insufficient to establish appellant's burden of proof as he did not opine that she was totally disabled from work due to the accepted employment injuries.

OWCP referred appellant to Dr. Sultan for a second opinion evaluation. In an October 23, 2017 report, Dr. Sultan opined that she had no residuals of the accepted employment-related condition, and no additional employment-related conditions and disability. He found that appellant could work eight hours a day without restrictions. Dr. Sultan reviewed the factual and medical history, and provided essentially normal findings on physical examination with the exception of limited range of motion of the knees in a sitting position.¹² His report is based on a proper factual and medical background and establishes that appellant had no employment-related residuals, additional conditions, or total disability during the claimed period.

As appellant did not submit sufficiently rationalized medical opinion evidence to establish that she was disabled from work for the period commencing October 28, 2016 due to the accepted bilateral knee contusion, she has not met her burden of proof to establish that the claimed disability was employment related. She was thus not entitled to wage-loss compensation for the period claimed.¹³

On appeal counsel contends that the medical evidence of record is sufficient to establish that appellant was totally disabled commencing October 28, 2016 due to the accepted September 12, 2016 employment injury. As noted above, the medical evidence of record does not

¹⁰ *E.G.*, Docket No. 17-1955 (issued September 10, 2018).

¹¹ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *See R.V.*, Docket No. 18-0552 (issued November 5, 2018).

¹³ *Supra* note 11.

establish that appellant was totally disabled from work during the claimed period. She has, therefore, not met her burden of proof.

LEGAL PRECEDENT -- ISSUE 2

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁴ To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background supporting causal relationship.¹⁵

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.¹⁶ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹⁷ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁸

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish that the acceptance of her claim should be expanded to include additional bilateral knee conditions causally related to the accepted September 12, 2016 employment injury.

Dr. Ross' September 20, 2016 Form CA-20 report diagnosed derangement of the right and left knee and he checked a box marked "yes" indicating that the condition was caused or aggravated by the accepted September 12, 2016 employment incident. However, he did not explain how the September 12, 2016 incident caused or aggravated appellant's bilateral knee condition. Reports which support causal relationship with a checkmark are insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation.¹⁹ Thus, the Board finds that Dr. Ross' report is insufficient to establish appellant's claim.

¹⁴ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁵ *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

¹⁶ *D.E.*, 58 ECAB 448 (2007); *Mary J. Summers*, 55 ECAB 730 (2004).

¹⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (2005).

¹⁸ *V.W.*, 58 ECAB 428 (2007); *Ernest St. Pierre*, 51 ECAB 623 (2000).

¹⁹ *See supra* note 8.

In a September 20, 2016 narrative report, Dr. Ross attributed an aggravation of appellant's preexisting bilateral knee osteoarthritis to her employment-related fall on September 12, 2016. In Form CA-17 reports dated October 11 and November 1, 2016 and October 12 and November 14, 2017, he diagnosed bilateral knee derangement due to the accepted work injury and opined that she was totally disabled from work. The Board has found that rationalized medical opinion evidence must relate specific employment factors identified by the claimant to the claimant's condition, with medical rationale explaining how the employment factors physiologically caused the diagnosed condition.²⁰ The Board has also found that a mere conclusion without the necessary rationale is insufficient to meet a claimant's burden of proof.²¹ Dr. Ross did not explain how appellant's accepted condition of bilateral knee contusion aggravated her preexisting bilateral knee osteoarthritis, and caused her bilateral knee derangement, and disability.²² Thus, his reports are insufficient to establish her burden of proof.

Dr. Ross' January 24, 2017 medical note which found that appellant's right knee meniscus tear "could have" resulted from her employment-related fall is speculative in nature and, thus, of no probative value and does not provide the rationale needed to establish causal relation.²³ His remaining reports addressed her bilateral knee conditions and disability from work, but did not offer a medical opinion finding that the diagnosed conditions were causally related to the accepted work injury.²⁴ The Board finds, therefore, that Dr. Ross' reports are insufficient to establish appellant's burden of proof.

While Dr. Wilkins' September 12, 2016 x-ray report did offer diagnoses of bilateral knee conditions, the Board has held that diagnostic studies lack probative value as they do not address whether the employment injury caused any of the diagnosed conditions.²⁵

Dr. Felt's February 15, 2017 left knee MRI scan report which diagnosed, among other things, heterogeneous marrow appearance within the medial and lateral femoral condyles without evidence of edema that may be secondary to prior trauma and was otherwise chronic in nature is speculative and, thus, of no probative value and does not provide the rationale needed to establish causal relation.²⁶ Further, while he provided right knee diagnoses in his January 19, 2017 MRI scan report, he did not offer an opinion addressing whether the accepted employment injury caused any of the additional diagnosed conditions.²⁷ The Board finds that Dr. Felt's reports are insufficient to establish appellant's burden of proof.

²⁰ See *P.J.*, Docket No. 17-0570 (issued October 26, 2017).

²¹ *Id.*

²² *Id.*

²³ *A.L.*, Docket No. 14-1285 (issued November 4, 2014).

²⁴ See *C.N.*, Docket No. 17-1321 (issued January 16, 2018).

²⁵ See *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

²⁶ See *supra* note 24.

²⁷ See *supra* note 26.

Dr. Sultan, OWCP's referral physician, submitted an October 23, 2017 report. He reviewed the SOAF and medical record, and discussed examination findings. Dr. Sultan found no residuals of the accepted employment-related condition, no additional employment-related conditions, and no disability. He opined that appellant could work eight hours a day with no restrictions. Dr. Sultan related that his physical examination revealed essentially normal findings with the exception of limited range of motion of the knees in a sitting position. The Board finds that as his opinion was based on a proper factual and medical history, and was supported by medical rationale, it is sufficient to establish that appellant sustained no residuals, additional condition, or disability due to the accepted September 12, 2016 employment injury.²⁸

On appeal counsel contends that the medical evidence of record is sufficient to establish that appellant sustained additional bilateral knee conditions due to the accepted September 12, 2016 employment injury. As noted above, none of the medical evidence of record contains a sufficiently rationalized medical opinion to establish that she sustained additional bilateral knee conditions that were caused, aggravated, or a consequence of the accepted September 12, 2016 employment injury. Appellant has, therefore, not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish total disability from work commencing October 28, 2016 causally related to her accepted employment injury. The Board also finds that she has not met her burden of proof to establish that the acceptance of her claim should be expanded to include additional bilateral knee conditions causally related to her accepted September 12, 2016 employment injury.

²⁸ See *L.B.*, Docket No. 18-0560 (issued August 20, 2018).

ORDER

IT IS HEREBY ORDERED THAT the May 7, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 2, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board